

NSCHC Guidance: FBI Checks

Conducting Compliant FBI Checks for the National Service Criminal History Check Requirements



Introduction

CNCS grantees and subgrantees (“grantees”) must conduct a National Service Criminal History Check (NSCHC) on all individuals that serve in covered positions, which are positions that receive a salary, stipend, living allowance or education award supported by a CNCS-funded grant. The NSCHC requirements are explained in full in [Chapter 45 of the Code of Federal Regulations, Parts 2540.200-207](#) (45 CFR 2540.200-207), with further information provided on the [NSCHC Knowledge Network](#). This document focuses on one component of the NSCHC process, fingerprint-based FBI checks, referred to in this document as “FBI checks” for brevity. Please note that an FBI check alone is **never** enough to satisfy a grantee’s NSCHC requirements. For a thorough explanation of the NSCHC requirements as a whole, review all of 45 CFR 2540.200-207 or take CNCS’s eCourse on the NSCHC requirements, available on the Knowledge Network. If you are a subgrantee of an organization other than CNCS, you may also have to comply with additional requirements from your prime grantee.

Summary: FBI Checks in Brief

See below for a brief overview of FBI checks. Further information on each of these items is provided in the rest of this document.

1. What is an FBI check for the purposes of an NSCHC?

An FBI check is a fingerprint-based search of the FBI’s national criminal history database.

2. Who needs an FBI check?

All individuals in covered positions with recurring access to vulnerable populations require an FBI check. Grantees may choose to conduct either an FBI check or state checks on individuals with no or episodic access to vulnerable populations. Even individuals that have access to vulnerable populations only once or twice a year can qualify as having recurring access. Consequently, CNCS recommends conducting both FBI and state checks if there is any uncertainty regarding a specific individual’s level of access.

3. How can I conduct an FBI check on an applicant?

Most grantees should obtain FBI checks from their state repositories, state agencies that serve as the official custodians of criminal history information in their state. A list of these organizations is available on the [NSCHC Knowledge Network](#). These are the same organizations that provide state checks. If your state repository cannot successfully provide you with an FBI check, you may use a contractor secured by CNCS named Fieldprint to obtain an FBI check. Other routes to obtain an FBI check require an approved alternative search procedure. Information on accessing Fieldprint and requesting an alternative search procedure is available on the [NSCHC Knowledge Network](#).

4. When do I need to conduct an FBI check?

In advance of the individual starting work or service. Specifically, grantees must initiate FBI checks no later than an individual’s *first day* of work or service. CNCS has defined initiation as one documented step after consent, meaning a grantee must choose its own specific process to serve as initiation and document that process in its policies and procedures. Common examples are paying for the checks or scheduling a fingerprinting appointment.

5. How do I interpret an FBI check?

Most grantees will receive FBI checks that only indicate whether an individual has passed or failed a test against some set of criteria. At a minimum, this criteria must specify that individuals that have been convicted of murder or are required to be registered as sex offenders cannot work or serve on a CNCS-funded grant. Your organization may be able to add additional screening criteria, depending on your source of FBI checks.

1. What Is an FBI Check?

An FBI check is a fingerprint-based search of the FBI's national criminal history database. It returns information from all states and territories in the United States, in contrast to state checks, which are geographically limited.

While an FBI check covers a broad geographical area, it relies on data reported by the states and territories. The information reported varies from jurisdiction to jurisdiction. Consequently, its coverage is broad, but not necessarily deep. Combining an FBI check with state checks in an individual's state of residence and state of service offers the best combination of breadth and depth to ensure a thorough search. See Box 1 for an illustration. Look for the **State Checks** heading on the [NSCHC Knowledge Network](#) for more information about state checks in the NSCHC process.

2. Who Needs an FBI Check?

For some individuals it is an option. For other individuals, it is required. All individuals in covered positions that have **recurring access** to vulnerable populations **must** receive an FBI check, in addition to a search of the National Sex Offender Public Website and a check of the official state criminal history information repository in the person's state of residence and state of service. Individuals **without recurring access** may undergo **either** an FBI check **or** state checks.

Vulnerable populations are defined as children aged 17 and younger, persons age 60 and older, and individuals with disabilities. CNCS defines recurring access as:

The ability on more than one occasion to approach, observe, or communicate with a person, through physical proximity or other means, including but not limited to, electronic or telephonic communication. Recurring access is typically a regular, scheduled, and anticipated component of a person's service activities. (45 CFR 2510.20).

This definition has two important ramifications.

- First, electronic or telephonic access is recurring access. It does not need to be physical.
- Second, whether or not an individual has recurring access is not based on the *frequency* of access alone. Rather, it is based on the ability to interact with vulnerable populations "on more than one occasion" and whether or not it is "a regular, scheduled and anticipated" activity. Consequently, even individuals that have access to vulnerable populations only once or twice a year may have recurring access. Essentially, if you know it is going to occur, it is recurring access.

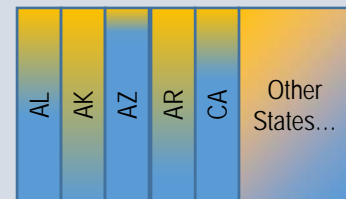
Box 1: State Checks and FBI Checks

A State Check



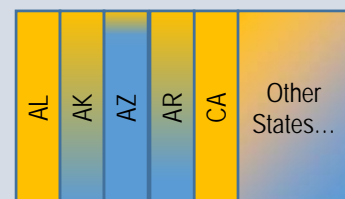
A state check provides all available criminal history from one state. For example, an Alabama state check provides all available criminal history in Alabama, but nothing from other states.

An FBI Check



An FBI check provides some information from all states, but the amount of information varies state-to-state. In this example, more information is available from Alaska than Arizona. (*NB: This is a theoretical example only and may or may not reflect the actual reporting practices of the states mentioned above.*)

State AND FBI Checks



Suppose an individual lived in California and wanted to work in Alabama. Combining an FBI check with Alabama and California state checks would provide the best combination of breadth and depth.

Box 2: Understanding Recurring Access

Dora

Dora is a volunteer coordinator in a covered position in a program that serves the elderly. She does not provide direct service to the program's beneficiaries, but she calls the beneficiaries often to see how the program is going. Dora has **recurring access** because of her telephonic access.

Hisham

Hisham is a fiscal specialist in a covered position in a tutoring program. Tutoring occurs at a local school. Hisham works in a nearby office. Students in the program occasionally come to the office to pick up a prize for performance, and Hisham may see them there. However, Hisham does not anticipate seeing them as part of his normal duties. Hisham **does not have recurring access** because this is not regular, scheduled or anticipated.

Kim

Kim is an executive director in a covered position in the same program as Hisham. She mainly focuses on high-level program management. She visits the school once a year, however, to observe the tutoring. Kim has **recurring access**, as her interaction with beneficiaries is regular, scheduled or anticipated, even though it only occurs once a year.

Mele

Mele is a program director in RSVP, a program that engages seniors as volunteers to support community needs. Mele's only interaction with vulnerable populations is with these volunteers. She does not interact with program beneficiaries at all. Mele **does not have recurring access**, because she is providing services *with* vulnerable populations, not *to* vulnerable populations.

For this reason, CNCS recommends treating most covered positions as if they have recurring access unless you are very certain that is not the case, as might be the case if individuals are doing a service activity like trail construction with adult crews. Erring on the side of caution when determining an individual's level of access provides your beneficiaries with greater safety and mitigates the risk of unintentional noncompliance to your organization, with an added cost of only a relatively small additional administrative burden. It will also allow your staff to focus on learning and monitoring one consistent system.

Recurring access only applies when a person is providing service *to* vulnerable populations, not providing service *with* vulnerable populations. If a person's access to vulnerable people is limited to those who are, themselves, working or serving in a CNCS-funded program, they would require only state checks OR an FBI check. In making decisions regarding recurring access, grantees must make an informed decision about whether a person in a covered position is providing service to a vulnerable population. The grantee should ask, whether a reasonable person, based on the totality of the circumstances, would determine that the population served by the person was a vulnerable population. See Box 2 on the next page for some examples of determining an individual's level of access.

3. How Can I Conduct an FBI Check?

Most organizations will get FBI checks through one of two routes:

1. **State Repositories:** Most state criminal history information repositories can provide FBI checks along with state checks. Grantees can find these organizations by using the list of organizations on the [NSCHC Knowledge Network](#) under the **State Checks** heading. Grantees should utilize these bodies whenever they are able to successfully provide FBI checks. They are the official source of criminal history information in a state, they can offer state and FBI information together, and they are generally the most cost effective option for FBI checks. Fees, procedures and processing times will vary state-to-state. A new grantee should begin by determining if the official repository in their state can provide an FBI check by contacting them using the information on the [NSCHC Knowledge Network](#).
2. **CNCS's Contractor, Fieldprint:** CNCS has engaged a contractor named Fieldprint to provide FBI checks to organizations that cannot successfully receive this access from their state repositories. This contractor serves as an FBI-approved Channeler, meaning it has been approved by the FBI to directly access the FBI's database. A single check costs \$30.25 and can be completed in a few days in most cases. Visit the [NSCHC Knowledge Network](#) and look under the **FBI Check** heading for information on how to use Fieldprint.

These are not the only two possible ways to obtain FBI checks. Some grantees may find that state laws or regulations have given them access to FBI checks through another route. For example, a grantee that engages licensed medical

professionals may be able to access FBI checks through a licensing agency, such as their state's Department of Health. Individuals can also request FBI checks for themselves through a process known as the personal review or Departmental Orders process. To utilize any sources for FBI checks other than a state repository or Fieldprint, a grantee must request an alternative search procedure from CNCS. Look for the **Alternative Search Procedures and Exemptions** heading on the [NSCHC Knowledge Network](#) for more information about how to submit a request.

4. When Do I Need to Conduct an FBI Check?

Grantees must initiate FBI checks no later than an individual's first day of work or service, which is the first day that the individual begins accruing time that will be compensated with a salary, stipend, or education award from a CNCS-funded grant. Even if an individual is attending a pre-service orientation, if they are accruing hours towards a grant-funded salary, stipend, or education award, they have started work or service for the purposes of the NSCHC process.

CNCS has defined initiation as one documented step after getting consent to conduct an NSCHC. This is a broad standard, designed to allow grantees the flexibility to choose an initiation process that works for them and responds to their states' processes. Common examples include paying for the checks or scheduling a fingerprinting appointment. See Box 3 for some examples of possible initiation processes. You can use the Documentation Checklist on the [NSCHC Knowledge Network](#) to help log your initiation. Grantees must also initiate state checks no later than the first day of work or service and document their initiation process for state checks in the same way.

Once initiated, an FBI check may take several days, or even weeks, to be returned, depending on how it is obtained. Individuals in covered positions may begin work or service while this check is pending *if*:

- An NSOPW search has been completed for this individual
- Any state checks needed have been initiated no later than their first day of work or service, AND
- They do not have unaccompanied access to vulnerable populations until either their state checks *or* the FBI check clears.

If the individual does have access to vulnerable populations before either state or FBI checks clear, a grantee must document their accompaniment by an appropriate individual for the entirety of that access until either their state checks or the FBI check clears. Review Questions 7.15 to 7.17 CNCS's Frequently Asked Questions on the NSCHC Requirements, available on the [NSCHC Knowledge Network](#), for more information.

5. How Do I Interpret an FBI Check?

In most cases, the FBI checks you receive will only indicate whether an individual has cleared or not cleared a check against a certain list of criteria, as the FBI generally does not permit the release of criminal history information to entities that are not authorized by law to receive it. This is true both for FBI checks obtained through state repositories and for FBI checks obtained through Fieldprint.

Box 3: Four Ways to Initiate State and FBI Checks

Both state and FBI checks must be initiated no later than the first day of work or service. In both cases, grantees must choose a specific process to serve as initiation and document that in their policies and procedures. Here are some examples in use by CNCS grantees right now. Your organization can choose one of these or a different system, provided it happens after an individual consents to the NSCHC process and you document when it occurs consistently.

1. **Payment:** In some states, grantees can request and pay for state and FBI checks through an online system, which requests payment right away. Once a grantee has paid, the system emails them a dated receipt. Grantees can save that receipt as documentation of initiation.
2. **Scheduling a fingerprinting appointment:** CNCS's contractor for FBI checks, Fieldprint, allows individuals to schedule appointments online, and grantees can access a log of when they schedule these appointments through an online portal. They can save the records that indicate when this appointment was made as documentation of initiation.
3. **Filling out a state repository's form:** Some state repositories will require individuals to complete a form to begin the process of state and FBI checks. An organization could consider completing this form to be initiation. If the form is dated, as most are, a photocopy of the form could serve as documentation of initiation.
4. **Getting fingerprinted:** When an individual visits a local law enforcement office to get fingerprinted for their FBI check, they call the grantee to confirm they completed their appointment. The grantee writes a dated memo to the file as documentation this occurred.

Consequently, grantees must understand the screening criteria used by the agency that conducts an FBI check to act on results appropriately. At a minimum, CNCS requires that this criteria include individuals convicted of murder and individuals required to register as sex offenders. Your state repository may allow you to add additional screening criteria. Some states, like Oregon, use their own processes for reviewing and screening applicants for certain types of positions. If you use a state repository, contact the repository if you are unsure of the criteria used. Information about the criteria that Fieldprint uses is available in CNCS's Guide to Using Fieldprint, located under the **FBI Check** heading on the [NSCHC Knowledge Network](#).

For more information, review Section 6 of the Frequently Asked Questions on the NSCHC Requirements, available on the [NSCHC Knowledge Network](#), or view Chapters 5-8 of the [NSCHC Video Training Library](#).